BZA-1852 NEIL & PIPER GICK Variance

STAFF REPORT March 22, 2012

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REQUEST MADE, PROPOSED USE, LOCATION:

Petitioners, who are also the property owners, are requesting a variance to permit a setback of 20' instead of the required 40' for a proposed detached garage. The property, Lot 1 of Gick Minor Subdivision, is located at 7875 N 100 W in Tippecanoe Township, 18 (NW) 24-4 (UZO 4-2-2).

AREA ZONING PATTERNS:

The site is zoned Agricultural as is all surrounding property. Flood Plain zoning associated with Burnett's Creek exists ½ mile to the southwest.

Directly east of this property is the site of the pending special exception request for a peat mining operation on the agenda for May, 2012 (Black Swan Enterprises, LLC BZA-1835).

AREA LAND USE PATTERNS:

Petitioners' single family home is located on the site; a newly constructed home sits on Lot 2. A large pond exists on the southeastern corner of the property which extends beyond petitioners' property to the east and south. There is no FP zoning associated with this pond, but a 25' setback was platted. Other properties in the area are large lot residences.

TRAFFIC AND TRANSPORTATION:

CR 100 W is a secondary arterial based on the *Thoroughfare Plan*. The required 40' half-width right-of-way was dedicated on the final plat for Gick Minor Subdivision. It is this large right-of-way coupled with the 40' setback requirement for a secondary that is prompting the variance request at this location.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

Based on information provided by the County Health Department, petitioners' septic field is located behind the proposed garage. If the garage were moved 20' east to meet the required 40' setback, it would encroach on or cover part of the field.

STAFF COMMENTS:

After the *Thoroughfare Plan* was adopted as part of Tippecanoe County's *Comprehensive Plan*, subdivisions along roads with inadequate rights-of-way were required to dedicate any additional half-width to satisfy requirements of the *Thoroughfare Plan*. County Road 100 W is classified as a secondary arterial which

requires a minimum 80' right-of-way; the existing right-of-way is 50'. When petitioners platted their subdivision in 2010 (S-4207), they were required to plat an additional 15' of right-of-way to make the total half-width 40' as required in the *Thoroughfare Plan*.

However, some of the neighboring homes were built prior to the adoption of the *Thoroughfare Plan*. The single-family dwelling directly north of the subject property has a setback of 40' from the edge of the right-of-way, as well as another property to the south which has an outbuilding with a setback of 40' from the 25' half-width right-of-way; if built, petitioners' proposed garage would be at the same distance from the road as these existing structures.

According to County Health Department records, petitioners' septic field is located directly behind the proposed garage and if moved to meet setback requirements, would infringe on the drain field. But there is ample room on the north side of petitioners' 3.69 acre lot to construct a 28'x 35' garage or move the garage to a location father behind the house to not affect the septic system.

Regarding the ballot items:

1. The Area Plan Commission at its March 21, 2012 meeting determined that the variance requested **IS NOT** a use variance.

And it is staff's opinion that:

- Because existing homes to the north and south are setback at the same distance
 petitioners are proposing for their garage, and staff is not aware of any concerns
 regarding sight distances when entering onto CR 100 W, granting this variance
 WILL NOT be injurious to the public health, safety, and general welfare of the
 community.
- 3. Use and value of the area adjacent to the property included in the variance request **WILL NOT** be affected in a substantially adverse manner. There will be no adverse affects from constructing a garage that is at the same setback as neighboring conforming properties.
- 4. The terms of the zoning ordinance are being applied to a situation that **IS NOT** common to other properties in the same zoning district. With the exception of Lot 2 in Gick Minor Subdivision, all other properties with frontage on CR 100 W have a 25' half-width right-of-way instead of the *Thoroughfare Plan-*required 40'.
- 5. Strict application of the terms of the zoning ordinance WILL NOT result in an unusual or unnecessary hardship as defined in the zoning ordinance. Petitioners' have room at several other locations on their property to construct a detached garage of the same size. Additionally, petitioners already have a two-car attached garage.

Note: Questions 5a. and 5b. need only be answered if a hardship is found in

Question 5 above.

5a. It is only petitioners' desire to construct a garage at this location that is necessitating the variance and thus the hardship involved **IS** self-imposed.

5b. The variance sought **DOES NOT** provide only the minimum relief needed to alleviate the hardship because there is no ordinance-defined hardship.

STAFF RECOMMENDATION:

Denial